

TITLE 14. Fish and Game Commission
Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections 200, 202, 203.1, 205(c), 219, 220, 1590, 1591, 2860, 2861 and 6750, Fish and Game Code, and Sections 36725(a) and 36725(e), Public Resources Code, and to implement, interpret or make specific Sections 200, 202, 203.1, 205(c), 219, 220, 1580, 1583, 2861, 5521, 6653, 8420(e) and 8500, Fish and Game Code, and Sections 36700(e), 36710(e), 36725(a) and 36725(e), Public Resources Code, proposes to amend Section 632, Title 14, California Code of Regulations, relating to Stewarts Point State Marine Reserve.

Informative Digest/Policy Statement Overview

On June 24, 2010 the Commission adopted Emergency Regulations for the Stewarts Point State Marine Reserve (SMR). The adoption of these regulations was based on public support and tribal request. After working to adhere to Department of Fish and Game (Department) feasibility guidance and working with other non-government organizations, the Kashia Band of Pomo Indians of the Stewarts Point Rancheria developed a proposal that would allow access to traditional subsistence and ceremonial locations that had previously been incorporated into the Stewarts Point SMR, a no-take marine protected area (MPA).

The Kashia Band of Pomo Indians proposal requested that the no-take Stewarts Point SMR be modified so that a section of the shoreline would become a State Marine Conservation Area (SMCA) that allowed for recreational take (Table 1). Their proposed boundary ran from the mean high tide line out to a distance of 300 feet. However, in order to meet previous Department design feasibility guidance on designing MPAs, the Commission opted to extend the offshore boundary out to a line that approximates 1000 feet. Even though these modifications allowed for an SMCA to occur within an area that was previously a no-take reserve, there was no overall change to the connectivity of the MPA network. This was achieved because the original Stewarts Point SMR exceeded minimum size guidelines for connectivity as outlined by the Master Plan Science Advisory Team. However it should be noted that the level of protection for the modified SMCA was reduced from very high to low due to the allowed recreational take for all users.

Table 1. Proposed regulations for the Stewarts Point SMR/SMCA complex.

MPA Name	Proposed Allowed Take	SAT Level of Protection
Stewarts Point State Marine Reserve	Take of all living marine resources is prohibited	Very High
Stewarts Point State Marine Conservation Area	Take of all living marine resources is prohibited EXCEPT the recreational take from shore only of: marine aquatic plants other than sea palm, marine invertebrates, finfish by hook and line, surf smelt by beach net, and species authorized in Section 28.80 of these regulations by hand-held dip net.	Low

The proposed regulation will make permanent the emergency regulations described above.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Hotel Mar Monte, 1111 East Cabrillo Boulevard, Santa Barbara, California, on Thursday, December 16, 2010, at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Resources Building Auditorium, 1416 Ninth Street, First Floor, Sacramento, California, on Thursday, February 3, 2011 at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before January 28, 2011 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on February 1, 2011. All comments must be received no later than February 3, 2011 at the hearing in Sacramento, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Jon K. Fischer, Acting Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Jon K. Fischer or Sherrie Fonbuena at the preceding address or phone number. **Ms. Marija Vojkovich, Regional Manager, Department of Fish and Game, Marine Region, telephone (805) 568-1246 has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulation affects approximately 25 square nautical miles. The impacts are anticipated to be minor.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on a Representative Private Person or Business:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

Any additional costs to State agencies for enforcement, monitoring, and management of MPAs are difficult to estimate and depend on not only the impacts of the proposed regulation but also other regulations and processes.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.
- (h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FISH AND GAME COMMISSION

Jon K. Fischer
Acting Executive Director

Dated: November 9, 2010